

The Conflict Between Humanitarian Intervention and the Principle of Non-Intervention in Article 2(7) of the UN Charter

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Abstract

This paper examines the conflict between the principle of non-intervention, enshrined in Article 2(7) of the United Nations Charter, and the practice of humanitarian intervention. The principle of non-intervention aims to protect state sovereignty by prohibiting external interference in domestic matters, but it faces challenges in the context of severe humanitarian crises. Through analysis of legal frameworks, ethical debates, and case studies such as Kosovo, Libya, and Syria, this paper explores the complexities of balancing respect for sovereignty with the moral imperative to protect human rights. The role of the UN Security Council in authorizing interventions and the influence of geopolitical dynamics are discussed, as well as the evolving doctrine of Responsibility to Protect (R2P). The paper concludes by highlighting the need for clearer international standards that reconcile non-intervention with the responsibility to prevent atrocities, offering insights into potential reforms for a more consistent approach to humanitarian intervention in international law.

Keywords: non-intervention, humanitarian intervention, Article 2(7), United Nations Charter

1. Non-Intervention and Sovereignty in Article 2(7)

The principle of non-intervention, articulated in Article 2(7) of the United Nations Charter, forms a critical foundation for the maintenance of state sovereignty within the international system. This provision, stating that “nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state,” sets clear boundaries against external influence over a state’s internal affairs. The only exception granted is when the Security Council

deems intervention necessary to address threats to international peace and security. This scope of non-intervention is crucial as it reaffirms each state’s autonomy, protecting them from coercive interference by other states or international entities. The underlying purpose is to maintain a global order where each member of the United Nations respects the political independence, territorial integrity, and internal decision-making authority of others, fostering an environment in which states can coexist with mutual respect for each other’s sovereignty.

Beyond its legal codification, the concept of

non-intervention is deeply intertwined with the historical evolution of sovereignty in international law. The roots of sovereignty trace back to the Peace of Westphalia in 1648, a landmark agreement that concluded the Thirty Years' War and solidified the notion of nation-states as the primary actors in the international system. The Westphalian principle of state sovereignty emphasized that states should have exclusive authority within their territorial boundaries, a radical shift from prior systems where empires and the Church exercised overlapping powers. This idea of territorial sovereignty became a fundamental tenet, signaling that each state was both legally and politically equal on the international stage, free from external control or influence. Throughout the 18th and 19th centuries, the principle gained traction as states sought to prevent the interference of European powers in their internal affairs, especially during the colonial era.

The codification of non-intervention in Article 2(7) reflects this historical commitment to sovereign equality and non-interference, reinforcing that all states, regardless of size or power, possess an inherent right to self-governance. The Charter's authors, shaped by the devastation of two world wars, sought to create a system that would prevent imperialistic encroachments and power imbalances from destabilizing international relations. They recognized that respecting sovereignty was essential for a stable and equitable global order, and thus, enshrined non-intervention as a safeguard against the resurgence of dominance by powerful states over weaker ones.

However, this principle does not exist without contention. While Article 2(7) provides a broad shield for sovereignty, the concept of "domestic jurisdiction" is sometimes ambiguous, raising questions about its limits. Issues like human rights abuses and humanitarian crises challenge the non-intervention principle by suggesting that, in extreme cases, the international community may bear a responsibility to act. Despite these challenges, the historical and legal foundations of non-intervention under Article 2(7) continue to affirm that sovereignty, as developed through centuries of practice, remains central to maintaining a balanced international order.

2. Humanitarian Intervention: Rationale and Debate

2.1 Overview of Humanitarian Intervention in Response to Crises

Humanitarian intervention, defined as the use of force by one or more states to address severe human rights violations within another state, has emerged as a contentious aspect of modern international relations. This concept has developed in response to global awareness of atrocities such as genocide, ethnic cleansing, and large-scale civilian suffering. Advocates argue that in cases where a state fails to protect its population or actively engages in human rights abuses, the international community has a moral duty to intervene to prevent further harm. Unlike traditional military interventions motivated by territorial or political interests, humanitarian interventions are intended to alleviate human suffering and protect fundamental human rights.

The rationale for humanitarian intervention centers on the idea that human rights are universal and that gross violations of these rights are a matter of international concern. This perspective challenges the classical notion that state sovereignty is absolute and that external actors have no role in a state's internal matters. By prioritizing human rights, the argument for humanitarian intervention asserts that sovereignty should not shield regimes that violate the basic rights of their citizens on a mass scale. As global communication and media coverage have made crises more visible, the pressure on the international community to respond has grown, transforming humanitarian intervention into a critical, though controversial, component of global governance.

2.2 Ethical Tension: Protection of Human Rights vs. State Sovereignty

The debate surrounding humanitarian intervention reveals a profound ethical tension between protecting human rights and respecting state sovereignty. On one side of the debate, proponents argue that there is a moral imperative to prevent atrocities, such as genocide and ethnic cleansing, even if it requires violating the non-intervention principle. This view contends that sovereignty should not serve as a cover for states that commit crimes against their own populations. The ethical framework here emphasizes the duty to protect individuals from egregious harm, suggesting that humanity's shared values transcend the traditional boundaries of state sovereignty.

On the other hand, critics of humanitarian intervention emphasize the risks associated with infringing upon sovereignty. They argue that allowing external intervention on humanitarian grounds could open the door for abuse, where powerful states use “humanitarian reasons” as pretexts to pursue their interests. Additionally, frequent or arbitrary interventions could erode the principle of non-intervention, destabilizing the international system and undermining the protection that sovereignty offers to all states, especially weaker or less powerful ones. The ethical tension lies in balancing the international community’s responsibility to act against severe injustices with the respect for each state’s right to govern without external interference.

2.3 Influential Cases that Shaped Intervention Norms

Several landmark crises have shaped international norms on humanitarian intervention, notably the genocides in Rwanda and the NATO intervention in Kosovo. The 1994 Rwandan genocide, in which an estimated 800,000 Tutsi and moderate Hutu were killed within a span of a few months, highlighted the devastating consequences of international inaction. The global community, constrained by respect for Rwanda’s sovereignty and hampered by political indecision, largely refrained from intervening, despite evidence of mass atrocities. The failure to act in Rwanda led to widespread criticism of the UN and prompted calls for a more robust framework to prevent future genocides, laying the groundwork for the “Responsibility to Protect” (R2P) doctrine.

In contrast, the 1999 NATO intervention in Kosovo occurred without explicit UN Security Council authorization but was justified by NATO members as necessary to prevent large-scale ethnic violence against Kosovar Albanians by Serbian forces. While the intervention arguably helped to avert a humanitarian disaster, it sparked intense debate about its legality under international law and its implications for the principle of non-intervention. Critics argued that the unilateral decision to intervene set a dangerous precedent, while supporters viewed it as an essential action to protect vulnerable populations. Kosovo underscored the complexity of balancing humanitarian needs with legal frameworks, reinforcing the ongoing debate over the legitimacy and limits of humanitarian intervention.

Together, the cases of Rwanda and Kosovo have shaped current norms, illustrating the profound dilemmas faced by the international community when human rights abuses occur within sovereign borders. These cases underscore the need for clearer legal standards and mechanisms that can guide humanitarian interventions while respecting the principles of sovereignty and non-intervention.

3. Legal Conflict between Non-Intervention and Intervention

3.1 Article 2(7)’s Limits on Intervention and Possible Exceptions

Article 2(7) of the UN Charter establishes a foundational limit on intervention by stating that the United Nations has no authority to intervene in matters that fall strictly within a state’s domestic jurisdiction. This prohibition on interference serves as a safeguard for state sovereignty and a critical component of the non-intervention principle, ensuring that states retain control over their internal affairs without external intrusion. However, Article 2(7) also contains a significant exception: it allows for intervention if the Security Council determines that a particular situation constitutes a threat to international peace and security. In such cases, the Security Council may authorize collective action under Chapter VII of the Charter, effectively bypassing the non-intervention restriction.

The flexibility of Article 2(7) lies in its ambiguity regarding what constitutes “domestic jurisdiction,” especially when grave human rights violations are at stake. This ambiguity has led to contentious debates about whether humanitarian crises, such as genocide or widespread human rights abuses, fall outside the scope of domestic matters due to their potential impact on international peace. In recent years, the emergence of doctrines like the “Responsibility to Protect” (R2P) has challenged traditional interpretations of Article 2(7), suggesting that sovereignty may not be an absolute shield against intervention when a state fails to protect its citizens from mass atrocities. R2P advocates argue that in cases of severe humanitarian crises, the international community has an obligation to intervene, even if this appears to contravene the original non-intervention principle.

3.2 Legal Arguments for and Against Intervention Without Security Council Approval

The issue of intervention without explicit Security Council authorization remains one of the most divisive topics in international law. Proponents of unilateral humanitarian intervention argue that in cases where the Security Council is unable to act—often due to the veto power of permanent members—unilateral or regional interventions may be necessary to prevent large-scale atrocities. They contend that the spirit of international law, which emphasizes the protection of human rights and the prevention of genocide, justifies intervention when a state commits or fails to prevent severe abuses within its borders. According to this view, humanitarian intervention can be seen as an emergent norm within customary international law, where the international community assumes a duty to prevent mass human suffering, even if it requires bypassing the traditional Security Council route.

On the other hand, critics of unauthorized intervention argue that permitting intervention without Security Council approval undermines the UN Charter's legal framework and the sovereignty of states. They warn that allowing states to intervene unilaterally sets a dangerous precedent, potentially opening the door to abuses where powerful nations justify interference under the guise of humanitarianism to advance their strategic interests. Moreover, critics emphasize that the veto power in the Security Council, while at times obstructive, exists to ensure that interventions are collectively endorsed by the international community, thus providing a check on the arbitrary use of force. From this perspective, upholding the requirement for Security Council authorization is essential to maintaining global order and respect for the rule of law.

This legal conflict between respecting the procedural framework of the UN Charter and responding to humanitarian needs has yet to find a resolution. The cases of Kosovo and Libya, where interventions occurred without unanimous Security Council backing, underscore the ongoing tension. Kosovo was a case of NATO acting independently of the Council, while in Libya, Security Council authorization was given, but its perceived overreach by intervening states fueled skepticism about the legitimacy of such actions. Consequently, these precedents reveal the need for a nuanced approach that addresses

humanitarian imperatives without eroding the foundational legal principles that govern international relations.

4. UN Security Council's Role and Limitations

The UN Security Council plays a central role in authorizing interventions, particularly those intended to address threats to international peace and security, as outlined in Chapter VII of the UN Charter. The Council has the unique authority to mandate military or non-military interventions when it determines that a situation constitutes such a threat, granting legitimacy to actions that would otherwise violate the non-intervention principle enshrined in Article 2(7). This authority provides a framework for collective security and aims to prevent individual states from unilaterally intervening in the internal affairs of others. By requiring Security Council approval, the UN system ensures that interventions are broadly representative of the international community's consensus, preserving a degree of impartiality and adherence to international law.

However, the Security Council's ability to authorize interventions is frequently hampered by the influence of geopolitical dynamics, particularly the veto power held by its five permanent members (the United States, Russia, China, the United Kingdom, and France). This veto power allows any one of these members to block proposed actions, often leading to deadlock when their national interests or political alliances are at stake. For example, during the Syrian civil war, repeated efforts to pass resolutions aimed at intervention or imposing sanctions were obstructed by vetoes from Russia and China, allies of the Syrian government. Such geopolitical dynamics often hinder the Council's capacity to respond effectively to humanitarian crises, leaving many situations unaddressed or inadequately managed due to political considerations rather than an assessment of the crisis itself.

This intersection of legal authority and political influence has significant implications for the Security Council's legitimacy and effectiveness. While the Council is tasked with safeguarding international peace, its structure sometimes prioritizes the interests of powerful states over collective humanitarian needs. This has led to increasing calls for reform, with some proposing limits on veto use in cases involving mass atrocities, or alternative mechanisms that allow

the General Assembly or regional organizations to authorize interventions when the Security Council is deadlocked. Thus, while the Security Council remains the primary body responsible for authorizing interventions, its role is often constrained by the political interests of its most powerful members, highlighting a fundamental limitation in its ability to function impartially in response to global humanitarian needs.

5. Case Studies on Intervention and Sovereignty

5.1 Kosovo Intervention by NATO: Legal Debates and Precedents

The 1999 NATO intervention in Kosovo represents one of the most debated instances of humanitarian intervention, largely due to its legal ambiguity and the precedent it set for future actions. The intervention was launched without explicit authorization from the UN Security Council, as NATO members argued that immediate action was necessary to prevent ethnic cleansing and large-scale atrocities against the Kosovar Albanian population by Serbian forces. Proponents of the intervention argued that while it technically violated Article 2(7) of the UN Charter, which prohibits intervention in domestic matters, the humanitarian imperative justified the action. They contended that the intervention embodied the moral duty to prevent mass suffering and established the idea that severe humanitarian crises could warrant an exception to non-intervention.

However, this intervention also raised significant legal concerns. Critics argued that bypassing the Security Council undermined the UN's legal framework and set a dangerous precedent that might encourage powerful states or alliances to act unilaterally under the guise of humanitarianism. The lack of a clear legal basis for the intervention in Kosovo left international law in a gray area, as there was no formal recognition of a right to unilateral humanitarian intervention. The Kosovo case thus highlighted the tension between respecting the procedural legitimacy provided by the Security Council and the urgency of addressing humanitarian crises, setting a precedent that would influence future interventions, such as Libya.

5.2 Libya and Syria: Contrasting Responses and Sovereignty Issues

The interventions in Libya and Syria further illustrate the complexities and contradictions in

applying the principles of intervention and sovereignty. In 2011, the UN Security Council authorized a no-fly zone and military intervention in Libya through Resolution 1973, which cited the responsibility to protect civilians from the Libyan government's violent crackdown during the civil unrest. The resolution marked one of the first uses of the Responsibility to Protect (R2P) doctrine, aiming to prevent humanitarian catastrophe. However, the intervention quickly evolved beyond the initial mandate, with NATO forces supporting regime change by aiding opposition groups. This perceived mission creep led to widespread criticism, particularly from Russia and China, which argued that NATO's actions exceeded the Security Council's mandate and violated Libya's sovereignty. The Libya intervention consequently sparked doubts among UN members regarding the misuse of humanitarian motives for political ends, leading to more cautious attitudes toward subsequent proposals for intervention.

The case of Syria, which unfolded soon after, starkly contrasted with Libya due to the absence of an intervention, despite an arguably similar humanitarian crisis. Efforts to secure a Security Council resolution authorizing intervention in Syria were repeatedly blocked by Russia and China, who cited concerns about sovereignty and the potential for mission overreach, as seen in Libya. The result was an extended and devastating civil war, with limited international action to protect civilians. The contrasting responses in Libya and Syria underscore the profound influence of geopolitical dynamics on intervention decisions and the persistent challenges in balancing sovereignty with the responsibility to protect. Together, these cases illustrate the ongoing struggle within the international community to find a consistent and lawful approach to humanitarian intervention that respects both the principles of non-intervention and the imperative to prevent mass atrocities.

6. Conclusion

The principle of non-intervention, as codified in Article 2(7) of the UN Charter, is a foundational pillar of international law, aiming to protect state sovereignty and maintain global order by limiting external interference in domestic affairs. However, the emergence of severe humanitarian crises has increasingly challenged this principle, prompting debates over the legitimacy and

necessity of humanitarian intervention. While humanitarian intervention seeks to address egregious human rights violations, it inherently conflicts with the non-intervention norm, creating a complex legal and ethical dilemma.

The Security Council's role as the primary authorizing body for interventions is central to maintaining the legitimacy of such actions within the international system. However, the political interests of its permanent members often lead to deadlocks, as seen in the contrasting cases of Libya and Syria. In Libya, Security Council authorization enabled intervention under the Responsibility to Protect (R2P) doctrine, but the subsequent mission expansion beyond the initial mandate raised questions about the true motivations behind humanitarian interventions. The failure to secure a similar intervention in Syria underscored the inconsistencies in applying these principles and highlighted how geopolitical considerations often shape decisions more than humanitarian needs.

Case studies such as Kosovo, Libya, and Syria illustrate the practical complexities and legal ambiguities surrounding humanitarian intervention. They demonstrate the need for clearer standards and mechanisms that can balance the respect for sovereignty with the responsibility to prevent mass atrocities. While R2P offers a framework that seeks to address this balance, its inconsistent application has led to doubts about its effectiveness and potential misuse.

Looking forward, the international community faces a critical challenge: to reconcile the principle of non-intervention with the moral imperative to protect vulnerable populations from atrocities. This will likely require continued legal and institutional reform within the UN system, including reconsidering the use of the veto in humanitarian contexts and exploring alternative avenues for intervention when the Security Council is deadlocked. Ultimately, achieving a more coherent approach to humanitarian intervention requires a delicate balance—one that respects state sovereignty while recognizing the shared responsibility to uphold human rights and prevent suffering on a global scale.

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